

RETURN DATE: January 10 2023 : SUPERIOR COURT  
TOWN OF BROOKFIELD : J.D. OF DANBURY  
V. : AT DANBURY  
MCCARY REALTY, INC.; :  
EDWARD J MCCARTY : DECEMBER 1, 2022

**AMENDED COMPLAINT**

**COUNT ONE: VIOLATION OF TOWN OF BROOKFIELD BLIGHTED BUILDINGS  
AND PROPERTIES ORDINANCE**

1. The Plaintiff, Town of Brookfield (hereinafter “the Town”), is a municipality in the State of Connecticut with its principal place of business located at 100 Pocono Road, Brookfield, Connecticut 06804.
2. The Defendant, McCarty Realty, Inc., is a Connecticut Corporation with a business address of 226 Great Neck Road, Waterford, Connecticut 06385, and the owner of record of real property located at 846 Federal Road, Brookfield, Connecticut 06804 (hereinafter known as “the Property”).
3. The Defendant, Edward J. McCarty, is a resident of Georgetown, Connecticut, with an address of 18 Peaceable Street, Georgetown, Connecticut 06829, and President of the Defendant McCarty Realty, Inc.
4. On or about December 2, 2020, and at all times relevant to this Complaint, the Town had in effect a properly and lawfully adopted Blight Ordinance codified in Chapter 83 of the Town’s Code of Ordinances (hereinafter “the Blight Ordinance”), which authorized the Town to issue violations and take certain actions – including demolition – to ameliorate blighted, unsanitary, and unsafe conditions existing on properties located within the Town. **See Exhibit A**, Blight Ordinance.

5. The Blight Ordinance was enacted pursuant to the authority granted to the Town under C.G.S. §§ 7-148(c)(7), 7-148(c)(7)(H)(xv), 7-148-aa and 7-152c, and Connecticut Public Health Code § 19-13-B25, and pursuant to Connecticut State Building Code Sections 115 to 117, 2005 Connecticut Supplement, as amended 2009.
6. On or about December 2, 2020, the Town, acting pursuant to its Blight Ordinance, and through its Blight Prevention Panel, issued a Notice of Probable Violation and Order to Appear to the Defendant McCarty Realty Inc., care of Dominic Piacenza, who was the then court appointed conservator of Edward J. McCarty, who is the president of McCarty Realty, Inc. relative to “probable violations” at the Property. See Exhibit B, Notice of Probable Violation.
7. Specifically, the December 2, 2020 Notice of Probable Violation and Order to Appear cited three “probable violations” existing the Property pursuant to the Blight Ordinance, as follows:
  - a. Section 83-2.B.(1) – It is determined by the Town that existing conditions pose a serious or immediate danger to the community because of a life-threatening condition or a condition which puts at risk the health or safety of citizens;
  - b. Section 83-2.B.(2) – The property is not being maintained. Sagging Roof. It is becoming dilapidated and unsafe, as determined by the Building Official.
  - c. Section 83-2.B.(9) – It constitutes a threat to the general health, safety or welfare as determined by the Director of Health. The building is accessible to the public and constitutes an attractive nuisance to the neighborhood.
8. The December 2, 2020 Notice of Probable Violation and Order to Appear advised that a Show Cause Hearing would be conducted by the Town’s Blight Prevention Panel on

December 16, 2020, pursuant to Section 83-4.A of the Blight Ordinance, which would provide the Defendants an opportunity to appeal and/or otherwise show cause as to why no violation existed at the Property.

9. The December 2, 2020 Notice of Probable Violation and Order to Appear stated specifically that "...if the Blight prevention Panel determines that a violation has occurred and/or exists, the Panel will issue a Notice of Violation, Decision and Order which states the violation, directs the corrective or remedial action required to correct the violation, and the deadline to complete the required action. In addition, pursuant to Ordinance Section 83-4.E, the Order will impose fines of up to \$100.00 per day that the violation continues after the deadline for completion of the corrective or remedial actions required."
10. On or about December 16, 2020, the Town's Blight Prevention Panel held a show cause hearing relative to the Property pursuant to the Blight Ordinance, to which no person appeared to represent the Property.
11. On or about December 29, 2020, the Town, acting pursuant to its Blight Ordinance, and through its Blight Prevention Panel, issued a Notice of Violation, Decision and Order to the Defendant McCarty Realty Inc., care of Dominic Piacenza, who was the then court appointed conservator of Edward J. McCarty, president of McCarty Realty, Inc., relative to the Property. See Exhibit C, Notice of Violation.
12. Specifically, the December 29, 2020 Notice of Violation, Decision and Order advised that "it has been determined that a violation of the Brookfield Town Code of Ordinances, Chapter 83 . . . has occurred" and listed the following violations:

- a. Section 83-2.B.(1) – It is determined by the Town that existing conditions pose a serious or immediate danger to the community because of a life-threatening condition or a condition which puts at risk the health or safety of citizens;
  - b. Section 83-2.B.(2) – The property is not being maintained. Sagging Roof. It is becoming dilapidated and unsafe, as determined by the Building Official.
  - c. Section 83-2.B.(9) – It constitutes a threat to the general health, safety or welfare as determined by the Director of Health. The building is accessible to the public and constitutes an attractive nuisance to the neighborhood.
13. The December 29, 2020 Notice of Violation, Decision and Order stated specifically that the Defendant McCarty Realty, Inc. "... must correct and/or remove these conditions on or before January 27, 2021" and that "[u]nder Subsection E of Ordinance Section 83-4, you will be subject to a civil penalty of one hundred dollars (\$100) for each day a violation exists and continues beyond the date set for remediation."
14. Further, the December 29, 2020 Notice of Violation, Decision and Order stated specifically that "Corrective Action will include, but not be limited to: securing the building from trespass...repairing the roof and front portico...installing an 8 foot fence...maintaining the property overall."
15. Further, the December 29, 2020 Notice of Violation, Decision and Order stated specifically that "...the failure to comply with this order could result in the issuance of a separate Citation and fines for failure to correct or remediate the violation by the deadline set forth in this Order."

16. Further, the December 29, 2020 Notice of Violation, Decision and Order stated specifically that “if you fail to correct and/or remove these conditions by the deadline, the Town may itself cause the remediation of this violation at your expense.”
17. Further, the December 29, 2020 Notice of Violation, Decision and Order stated “the Town may enforce the Blighted Buildings and Properties Ordinance for these violations by filing an action in the Connecticut Superior Court in the event that you fail to remedy the above-stated violations by the deadline and you will be responsible for all fees, costs and expenses associated with said enforcement.”
18. On or about April 1, 2021, acting pursuant to its Blight Ordinance, and through its Blight Prevention Panel, issued an Order to Demolish to the Defendant McCarty Realty Inc., care of Dominic Piacenza, who was the then court appointed conservator of Edward J. McCarty, president of McCarty Realty, Inc., relative to the Property. See Exhibit D, Order to Demolish.
19. The Order to Demolish was issued pursuant to Sections 83-5.B (1),(2) and (3) of the Town of Brookfield’s Code of Ordinances, which state as follows:
  - (1) The Blight Prevention Panel shall order a building or structure to be demolished if it has been designated by the Panel as unfit for human habitation and the Panel determines that the building or structure constitutes a fire hazard or is otherwise dangerous to human life or the public welfare, in accordance with General Statutes Section 29-253(b), has been posted or placarded on site as such, has been vacated, and has not been put into proper repair so as to rescind the designation or determination by the Panel.

(2) The owner of any building or structure which has been ordered demolished shall be given notice of this order in the manner provided for service of notice in § 83-5A and shall be given a reasonable time, not to exceed 120 days, in which to demolish such building or structure. This notice is required even if notice was previously given pursuant to §83-5A.

(3) When the owner fails, neglects or refuses to demolish any building or structure within the requisite time, the Blight Prevention Panel may: a) instruct the Town Attorney to apply to a court of competent jurisdiction for a demolition order and/or other legal remedies; or b) if the Blight Panel has determined that the building or structure constitutes a fire hazard or is otherwise dangerous to human life or the public welfare, then, in accordance with General Statutes Section 29-253(b), the Town can proceed directly with demolition of the offending building or structure. The cost of such demolition shall create a debt in favor of the Town of Brookfield against such owner, and the Town may record a lien, within 30 days after the date that such demolition work has ceased, in the principal amount of such costs and expenses in accordance with General Statutes Section 49-73b, and shall give notice to the owner of the property in the same manner as set forth in General Statutes Section 34-34. Such costs shall be recoverable in a civil foreclosure or other action brought by the Town of Brookfield which shall possess all the rights of a municipal tax collector or as otherwise provided by law.

20. The April 1, 2021 Order to Demolish stated, in compliance with Brookfield Ordinance Sections 83-5.B (1),(2) and (3): "...A motion was made by S. Dunn to order 846 Federal

Rd to be demolished finding that the main building on this property is unfit for habitation, constitutes a fire hazard and is otherwise dangerous to human life and the public welfare. S. Dunn continued to say this is due to the deteriorated structural condition of the building and its proximity to a public street, parking area and is open to the general public. M. Connors seconded the motion with all in favor.”

21. Further, the April 1, 2021 Order to Demolish stated, in compliance with Brookfield Ordinance Sections 83-5.B (1),(2) and (3): “...you must demolish this building on or before July 30, 2021. You must apply for a demolition permit in a timely manner, because you must wait thirty (30) days after permit issuance to actually start demolition.”
22. Further, the April 1, 2021 Order to Demolish stated, in compliance with Brookfield Ordinance Sections 83-5.B (1),(2) and (3): “...in addition to the above, the Town may enforce the Blighted Buildings and Properties Ordinance for these violations by filing an action in the Connecticut Superior Court in the event that you fail to remedy the above-stated violations by the deadline and you will be responsible for all fees, costs and expenses associated with said enforcement.”
23. To date, no actions have been taken by the Defendants to remediate, correct or otherwise remove the blighted conditions cited in the December 29, 2020 Notice of Violation, Decision and Order.
24. To date, the Defendants have failed to demolish the Property in compliance with the April 21, 2021 Order to Demolish.
25. The Defendants have willfully neglected and/or refused to comply with the December 29, 2020 Notice of Violation, Decision and Order and April 21, 2021 Order to Demolish.

26. The acts complained of herein are unlawful and will continue unless acted upon by this Court.

WHEREFORE, the Plaintiff claims:

- a. A judgment authorizing the Town of Brookfield to demolish the structures located at 846 Federal Road, Brookfield, Connecticut pursuant to C.G.S. 7-152c;
- b. All costs related to the demolition of the Property;
- c. A fine of \$100 per day, commencing on January 28 2021, as provided in the Town Ordinance and by Connecticut General Statutes Section 7-148o;
- d. All costs related to the Town's enforcement of this matter;
- e. Attorney fees;
- f. The costs of this action; and
- g. Such other relief as the Court deems equitable.

The Plaintiff,  
Town of Brookfield

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Firm Juris No.: 441393



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STATEMENT OF AMOUNT IN DEMAND

The Plaintiff claims other relief in addition to or in lieu of money or damages.

The Plaintiff,  
Town of Brookfield

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Firm Juris No.: 441393

# **EXHIBIT A**

## Chapter 83

### BLIGHTED BUILDINGS AND PROPERTIES

**[HISTORY: Adopted by the Board of Selectmen of the Town of Brookfield 11-6-2000; amended in its entirety 7-6-2015. Subsequent amendments noted where applicable.]**

#### GENERAL REFERENCES

Director of Health — See Charter, § C6-7.

Building construction — See Ch. 96.

Citation procedure — See Ch. 84.

Lead and lead-based paint — See Ch. 166.

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#### § 83-1. Findings; purpose; legislative authority.

- A. It is hereby found and declared that dilapidated, blighted, or deteriorating structures, buildings and premises located within the Town of Brookfield contribute to the decline of neighborhoods, that the existence of such structures, buildings or premises adversely affects the economic well-being of the Town and is inimical to the health, safety and welfare of the residents of the Town.
- B. It is hereby further found that, while certain other remedies presently exist to remediate or abate serious property deficiencies, including blighted conditions, the adoption of this chapter has been enabled by state law to permit such remediation and/or abatement of specific and unacceptable property maintenance and/or blighted conditions.
- C. This chapter is therefore enacted pursuant to the authority granted to the Town under C.G.S. §§ 7-148(c)(7), 7-148(c)(7)(H)(xv), 7-148-aa and 7-152c, and Connecticut Public Health Code § 19-13-B25, and pursuant to Connecticut State Building Code Sections 115 to 117, 2005 Connecticut Supplement, as amended 2009, all as amended hereinafter.

#### § 83-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

**ABANDONED** — A building, dwelling or unit which, by any reasonably objective observation, has been relinquished and is vacant.

**BLIGHTED PREMISES** —

- A. Any structure, building, or parcel of land (property), including, but not limited to, single-family or multifamily residential or commercial/industrial property, whether occupied, abandoned or vacant, which is in such a condition that it poses a serious long-term or immediate danger to the community through risk of collapse, fire or infestation, or which has been declared by the Director of Health as unfit for human habitation, or which otherwise puts at risk the health or safety of the citizens.
- B. Conditions constituting blighted premises include, but are not limited to, the

following:

- (1) It is determined by the Town that existing conditions pose a serious or immediate danger to the community because of a life-threatening condition or a condition which puts at risk the health or safety of citizens.
- (2) The property is not being maintained. The following factors may be considered in determining whether a structure, building or property is not being properly maintained:
  - (a) Missing or boarded-up windows or doors;
  - (b) A collapsing or missing wall;
  - (c) Sagging or collapsed roof or floor;
  - (d) Siding that is seriously damaged or missing;
  - (e) Fire damaged;
  - (f) A foundation that is seriously damaged or missing;
  - (g) A foundation that is structurally faulty;
  - (h) Garbage, trash or abandoned cars situated on the premises.
- (3) It is, or is becoming, dilapidated or unsafe, as determined by the Building Official.
- (4) It is an unsafe structure as defined herein.
- (5) It has attracted illegal activity as determined by the Chief of Police.
- (6) It is a fire hazard, as determined by the Fire Marshal.
- (7) It is a factor in materially depreciating property values in the immediate neighborhood, because of its poorly maintained condition.
- (8) It has become a factor creating a substantial interference with the reasonable and lawful use and enjoyment of other space within a building or structure or of other premises within the neighborhood.
- (9) It constitutes a threat to the general health, safety or welfare as determined by the Director of Health.

**BLIGHT PREVENTION PANEL** — The Panel shall consist of the Building Official, Director of Health, Fire Marshal, Zoning Enforcement Officer and the First Selectman.

**BUILDING OFFICIAL** — The Building Official of the Town as defined in C.G.S. § 29-260.

**DILAPIDATED** — Any building or structure, or part thereof, that would not qualify for a certificate of occupancy and is deemed an unsafe structure; and any dwelling or structure, or part thereof, which is designated as unfit for human habitation as defined in the State Building Code, the Fire Code or the Public Health Code.

**DIRECTOR OF HEALTH** — The Director of Health of the Town as defined in the

C.G.S. § 19a-200.

**EXEMPT PROPERTY** — Any building or structure undergoing active remodeling, restoration, repair or renovation, provided that the blighted condition will be corrected thereby and that the exemption period will not exceed one year from the date of receipt by the Blight Prevention Panel of a written complaint.

**FIRE MARSHAL** — The Fire Marshal of the Town as defined in C.G.S. § 29-297.

**UNSAFE STRUCTURES** — All structures, or structures with deficient existing equipment or fixtures, which have become unsanitary or deficient because of inadequate means of egress facilities, inadequate light or ventilation, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or which involve illegal or improper occupancy or inadequate maintenance, or which are not secured against entry.

**ZONING ENFORCEMENT OFFICER** — The Zoning Enforcement Officer as defined in the Brookfield Town Charter, Article VI, § C6-1A.

**§ 83-3. Creating or maintaining blighted or dilapidated premises or unsafe structures prohibited.**

No owner, agent, tenant or person in control of real property shall cause blighted or dilapidated premises, whether occupied or not, or unsafe structures to be created or maintained within the Town of Brookfield.

**§ 83-4. Enforcement. [Amended 11-4-2019]**

**A. Determination of violation.**

- (1) Upon receiving a written complaint of a possible violation signed by a complainant, the matter may be referred to the proper Town official for appropriate action within that official's jurisdiction and authority. If a matter is proper for review by the Blight Prevention Panel, then the Panel shall make an investigation. The Panel may also initiate the procedures set forth in this chapter in the absence of a complaint.
- (2) If after investigation, a probable violation is found to exist, the Blight Prevention Panel shall serve written notice upon the owner/occupant of the premises where the probable violation exists. The notice of probable violation shall be sent in the manner prescribed to the last known address of each owner/occupant. A copy of such notice shall also be sent to the Chief of Police.
- (3) Such notice of probable violation shall state the probable violation and the conditions evidencing such violation and require the persons to whom it is delivered to attend a hearing before the Blight Prevention Panel to determine whether there has been a violation and, if so, to establish a plan for abatement of such violation, including the date by which such violation shall be fully abated. The notice shall also include the date, time and location of the hearing. A copy of the notice shall also be mailed to the complainant, if applicable.
- (4) The Blight Prevention Panel shall hold a hearing within 30 calendar days of the date of the notice of probable violation provided in § 83-4A(2) and (3). At

the hearing, all persons notified shall be given the opportunity to present evidence on the question of whether a violation of this chapter has occurred. The Panel or parties notified may call witnesses to present evidence.

- (5) If the owner/occupant who received the notice fails to appear, the Blight Prevention Panel may, nevertheless, determine whether a violation has occurred, provided the Panel has made a finding that notice was properly served.
  - (6) After the hearing, the Blight Prevention Panel shall make a written determination of whether a violation exists. If the Blight Prevention Panel determines that a violation exists, it shall include in its written determination the actions to be taken to abate such violation and a reasonable deadline date by which such violation shall be fully abated.
  - (7) If the Blight Prevention Panel determines that no violation has occurred, no further action as to that complaint shall be taken, and the Blight Prevention Panel shall serve written notice that no further action as to that complaint shall be taken, to the owner/occupant of the premises where the possible violation existed.
  - (8) Whenever, in the judgment of the Director of Health, an emergency exists, which requires immediate action to protect the public health, safety or welfare, an order may be issued, without hearing or appeal, directing the owner, agent, tenant or person in control of any blighted, unsafe or dilapidated premises to take such action as is appropriate to correct or abate the emergency situation. If circumstances warrant, the Director of Health may immediately act to correct or abate such emergency in accordance with statutory authority.
- B. Special consideration. Special consideration may be given to those who require it in order to correct a violation of this chapter. Specifically, the Blight Prevention Panel may grant an owner/occupant additional time to correct a violation where the owner/occupant, or a person acting on his or her behalf, establishes good cause. As used in this section, "good cause" includes, but is not limited to, an elderly individual who is unable to personally correct a violation due to his or her age; a disabled individual who is unable to personally correct a violation due to his or her disability; or an exempt property as defined in this chapter. In determining whether good cause exists, the Blight Prevention Panel shall consider whether other occupants of the premises are able to assist in correcting the violation in a timely fashion and whether the severity of the violation is such that additional time is not warranted.
- C. Notice of violation.
- (1) Upon the determination by the Blight Prevention Panel, in accordance with Subsection A(6), that a violation of this chapter exists, the Blight Prevention Panel shall serve a written notice of violation upon the owner/occupant and shall simultaneously send to each lien holder of the subject property a copy of the notice of violation.
  - (2) The notice of violation shall state:

- (a) The violation;
  - (b) The actions to be taken to abate such violation and the date upon which the violation shall be remedied;
  - (c) That the failure of the owner/occupant to remedy the violation within the prescribed time shall result in the issuance of a citation in accordance with this chapter;
  - (d) The amount of the daily civil penalties and any other fines or penalties imposed pursuant to this chapter or as authorized by statute; and
  - (e) That if the owner/occupant fails to remove, abate or remedy the violation, the Town may cause the remediation of the violation at the expense of the owner/occupant.
- (3) Delivery of the notice of violation to the owner/occupant shall be by one or both of the following methods:
  - (a) By personal delivery to the owner/occupant; or
  - (b) By certified mail, return receipt requested, and simultaneously by regular United States Postal Service mail, addressed to the owner/occupant at their last known address.
- D. Extensions. The Blight Prevention Panel may grant, for good cause shown, extensions of time for the holding of the hearing or to remediate the violation.
- E. Penalties. Violations of the provisions of this chapter shall be punishable by a civil penalty equal to the greater of \$100 or the maximum amount allowed by C.G.S. § 7-148(c)(7)(H)(xv), as the same may be amended from time to time, for each day a violation exists and continues beyond the date required for remediation set forth in the notice of violation, or as extended by the Panel. Violators will also be responsible for all costs and expenses associated with enforcement and the collection of any civil penalties, which shall include, but shall not be limited to, attorney fees, court costs, mailing costs and filing fees.
- F. Issuance of citations.
  - (1) A member of the Blight Prevention Panel shall issue a citation when a violation of this chapter continues beyond the date by which the Blight Prevention Panel required that the violation be remedied.
  - (2) The citation shall state:
    - (a) A description of the violation.
    - (b) The amount of the daily civil penalties levied and that such civil penalties shall be levied from the date of the citation, plus such other fines, penalties, costs and/or fees due.
    - (c) That the uncontested payment of such civil penalties, fines, costs and/or fees shall be made within 10 business days of the date of the citation.

- (d) That the owner/occupant may contest his/her liability before a Citation Hearing Officer by delivering in person or by mail within 10 business days of the date of the citation a written demand for a hearing.
  - (e) That if the owner/occupant does not demand a hearing, an assessment and judgment shall be entered against him/her and that such judgment may issue without further notice.
  - (f) That the Town shall file a lien against the real estate in accordance with C.G.S. § 7-148aa for the amount of any unpaid civil penalties or other fines, costs and/or fees imposed by the Town in accordance with this chapter.
- (3) Delivery of the citation shall be by the manner provided herein for service of the Notice of Violation. A copy of the citation shall simultaneously be sent to each lien holder of the subject property.
- G. Uncontested payment; time period. Any owner/occupant receiving a citation shall be allowed a period of 10 business days from the date of the citation to make an uncontested payment of the civil penalties, fines, costs and/or fees specified in the citation. All amounts shall be made payable to the Town.
- H. Payment of civil penalties.
  - (1) If the owner/occupant who has been issued a citation or a notice of citation pursuant to this chapter wishes to admit liability for any alleged violation, the owner/occupant may, without requesting a hearing, pay the full amount of the civil penalties, fines, costs and/or fees to the Blight Prevention Panel. Such payment shall be inadmissible in any subsequent proceeding, civil or criminal, to establish the conduct of such owner/occupant or other person making the payment.
  - (2) If an owner/occupant does not deliver or mail payment or a written demand for a hearing within 10 business days after the date of the citation, the Blight Prevention Panel shall issue a notice of citation to said owner/occupant within 12 months after the date that the ten-day period for uncontested payment of the citation civil penalties, other fines and costs expired. The notice of citation shall state:
    - (a) A description of the violation;
    - (b) The amount of the daily civil penalties levied and that such civil penalties shall be levied from the date of the citation, plus such fines, penalties, costs and/or fees due;
    - (c) That the uncontested payment of such civil penalties, fines, costs and/or fees shall be made within 10 business days after the date of the notice of citation;
    - (d) That the owner/occupant may contest his/her liability before a Citation Hearing Officer by delivering a written demand for a hearing in person or by mail within 10 business days after the date of the notice of citation;



- (e) That if the owner/occupant does not demand a hearing, an assessment and judgment shall be rendered against him/her and that such judgment may issue without further notice; and
- (f) That the Town shall file a lien against the subject real estate in accordance with Connecticut General Statutes Section 7-148aa for the amount of any unpaid civil penalties or other fines, costs and/or fees imposed by the Town in accordance with this chapter.

If an owner/occupant does not deliver or mail payment or a written demand for a hearing within 10 business days after the date of the notice of citation, he/she shall be deemed to have admitted liability, and the Blight Prevention Panel shall certify to the Citation Hearing Officer that such owner/occupant has failed to respond. The Citation Hearing Officer shall thereupon enter and assess the civil penalties, other fines, costs and/or fees provided for by this chapter and shall follow the procedures set forth in this chapter and issue a citation decision and notice of assessment to the owner/occupant and process the matter in accordance with § 83-4I(4).

I. Hearing procedure for citations.

- (1) Citation Hearing Officers are appointed in accordance with Brookfield Code § 84-3.
- (2) An owner/occupant who chooses to appeal a citation and requests a hearing to this effect shall be given written notice of the date, time and place for the hearing. Such hearing shall be held not less than 15 calendar days nor more than 30 calendar days from the date of the citation or notice of citation, provided the Citation Hearing Officer shall grant, upon good cause shown, any reasonable request by a party for a postponement or continuance. An original or certified copy of the citation issued by the Blight Prevention Panel shall be filed with and retained by the Town and shall be deemed to be a business record within the scope of C.G.S. § 52-180 and evidence of the facts contained therein. Upon request of the person appealing the citation, the presence of the Blight Prevention Panel member who issued the citation shall be required at the hearing. A member or members of the Panel and/or a designated Town official, other than any Citation Hearing Officer, may present evidence on behalf of the Town. An owner/occupant wishing to contest liability shall appear at the hearing and may present evidence on his/her behalf. If the owner/occupant who received the citation fails to appear, the Citation Hearing Officer may enter an assessment by default against him upon a finding of proper notice and liability under the applicable statutes and this chapter. The Citation Hearing Officer may accept from such owner/occupant copies of any relevant investigatory and citation reports, and/or any other official documents, by mail and may determine thereby that the appearance of such person is unnecessary.
- (3) The Citation Hearing Officer shall conduct the hearing in the order and form, and with such methods of proof, as the Hearing Officer deems fair and appropriate. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation. The

Citation Hearing Officer shall announce his decision at the end of the hearing. If the Citation Hearing Officer determines that the owner/occupant is not liable, the Citation Hearing Officer shall dismiss the matter and enter that determination, in writing, accordingly. If the Citation Hearing Officer determines that the owner/occupant is liable for the violation, the Citation Hearing Officer shall forthwith enter and assess the civil penalties, fines, costs and/or fees as provided by this chapter.

- (4) If the Citation Hearing Officer's assessment is not paid on the date of its entry, the Citation Hearing Officer shall send, by first-class mail, a citation decision and notice of assessment to the owner/occupant found liable and shall file, not less than 30 calendar days nor more than 12 months after such mailing, a certified copy of the notice of assessment with the Clerk of the Superior Court designated by the Chief Court Administrator, together with the applicable entry or filing fee. The certified copy of the notice of assessment shall constitute a record of assessment. Within such twelve-month period, assessments against the same owner/occupant may be accrued and filed as one record of assessment. The Clerk shall enter judgment in the amount of the Citation Hearing Officer's record of assessment, as well as court costs, against such owner/occupant in favor of the Town. The Citation Hearing Officer's assessment, when so entered as a judgment, shall have the effect of a civil money judgment, and a levy of execution of such judgment may issue without further notice to the owner/occupant.
  - (5) An owner/occupant against whom an assessment has been entered pursuant to this chapter is entitled to judicial review by way of appeal in accordance with C.G.S. § 7-152c(g).
- J. Recording of lien. Any unpaid civil penalty or other fine imposed pursuant to the provisions of this chapter, and any and all costs and expenses incurred by the Town for the enforcement of this chapter, shall constitute a lien upon the real estate against which the civil penalty or other fine was imposed from the date of such civil penalty or fine. Each such lien may be continued, recorded and released in the manner provided for in C.G.S. § 7-148aa. Each such lien shall take precedence over all other liens filed after July 1, 1997, and encumbrances, except taxes, and may be enforced in the same manner as property taxes.
- K. Removal or remediation by Town. If the hearing officer determines the owner/occupant is liable for the violation, the Town may cause or take such action as is necessary to correct the violation. All costs and expenses of such corrective action shall be a lien upon the real estate. The Blight Prevention Panel shall cause a certificate of lien to be recorded in the Town Clerk's office within 60 calendar days after completion of such corrective action if all costs and expenses thereof are not reimbursed in full by said owner/occupant.

#### **§ 83-5. Other remedies. [Amended 9-4-2018]**

The provisions of this chapter shall be in addition to all remedies civil or criminal provided to the Town or its officials by any local, state or federal statute or regulation, including, without limitation, the provisions of the State Building Code, the State Fire Code and the State Public Health Code, Zoning Regulations or other sections of the

Town Code. The election of the Town to pursue the remedies provided by this chapter shall not preclude the Town from pursuing any other remedies available to it.

- A. In addition to the remedies provided by § 83-4, if the Building Official or Fire Marshal determines that any premises are in an unsafe condition, or the Director of Health finds that any premises is unfit for human habitation or violates the Connecticut General Statutes governing public nuisances or the Zoning Enforcement Officer determines that zoning violations exist, the Building Official, Fire Marshal, Zoning Enforcement Officer or Director of Health may serve upon the owner of the premises a notice detailing the condition deemed unsafe or constituting a threat to health, safety or general welfare and specifying the required repairs or improvements to be made to abate the unsafe, unsightly, unhealthy or nuisance conditions. The notice may require that any building or structure that has been determined to be a fire hazard or otherwise dangerous to human life or the public welfare, in accordance with General Statutes Section 29-253(b), be demolished within a certain time period. The notice shall be delivered to the owner personally or sent by certified mail to the last known address of the owner. If neither method is successful, the notice shall be posted on the premises in a conspicuous place. In the event that the owner, agent, tenant or person in control fails to comply with the terms of the order within the reasonable timeframe set forth in the order, the Building Official, Fire Marshal, Zoning Enforcement Officer or Director of Health shall refer the matter to the Blight Prevention Panel, which may: 1) instruct the Town Attorney to take appropriate enforcement action in the courts, including, but not limited to, the commencement of an injunction action; or 2) proceed in accordance with § 83-5B herein.
- B. Demolition.
- (1) The Blight Prevention Panel shall order a building or structure to be demolished if it has been designated by the Panel as unfit for human habitation and the Panel determines that the building or structure constitutes a fire hazard or is otherwise dangerous to human life or the public welfare, in accordance with General Statutes Section 29-253(b), has been posted or placarded on site as such, has been vacated, and has not been put into proper repair so as to rescind the designation or determination by the Panel.
  - (2) The owner of any building or structure which has been ordered demolished shall be given notice of this order in the manner provided for service of notice in § 83-5A and shall be given a reasonable time, not to exceed 120 days, in which to demolish such building or structure. This notice is required even if notice was previously given pursuant to § 83-5A.
  - (3) When the owner fails, neglects or refuses to demolish any building or structure within the requisite time, the Blight Prevention Panel may: a) instruct the Town Attorney to apply to a court of competent jurisdiction for a demolition order and/or other legal remedies; or b) if the Blight Panel has determined that the building or structure constitutes a fire hazard or is otherwise dangerous to human life or the public welfare, then, in accordance with General Statutes Section 29-253(b), the Town can proceed directly with demolition of the offending building or structure. The cost of such demolition shall create a debt in favor of the Town of Brookfield against such owner, and the Town may

record a lien, within 30 days after the date that such demolition work has ceased, in the principal amount of such costs and expenses in accordance with General Statutes Section 49-73b, and shall give notice to the owner of the property in the same manner as set forth in General Statutes Section 34-34. Such costs shall be recoverable in a civil foreclosure or other action brought by the Town of Brookfield which shall possess all the rights of a municipal tax collector or as otherwise provided by law.

- (4) Whenever a building or structure is demolished, whether carried out by the owner or by the Director of Health, such demolition shall include the filling in of the excavation on which the demolished building or structure was located in such manner as to eliminate all potential danger to the public health, safety and welfare arising from such excavation.
- (5) All demolition shall be preceded by an inspection of the premises by the Director of Health to determine whether or not extermination procedures are necessary. If the premises is found to be infested, appropriate rodent extermination to prevent the spread of rodents to adjoining or other areas shall be instituted before, during and after demolition.

# **EXHIBIT B**



**TOWN OF BROOKFIELD**

**BLIGHT PREVENTION PANEL**

Sent Via First Class Mail and  
Certified Mail, Return Receipt Requested  
#7011 1570 0002 4737 5806

**NOTICE OF PROBABLE VIOLATION  
AND  
ORDER TO APPEAR**

<b>ISSUED TO:</b>	<b>LOCATION OF POSSIBLE VIOLATION:</b>
McCarty Realty Inc. c/o Attorney Dominic Piacenza Conservator 164 Hempstead Street New London, CT 06320	846 Federal Road Brookfield, CT 06804

**WHEREAS, THERE IS PROBABLE CAUSE** that a violation(s) of the Town of Brookfield Blighted Buildings and Properties Ordinances, Chapter 83, exists on property either owned or used by you which is located at: 846 Federal Road, Brookfield, CT 06804, and

**WHEREAS,** the probable violation is cited as follows:

*Section 83-2.B.(1) – It is determined by the Town that existing conditions pose a serious or immediate danger to the community because of a life-threatening condition or a condition which puts at risk the health or safety of citizens.*

*Section 83-2.B.(2) – The property is not being maintained. Sagging roof. It is becoming dilapidated and unsafe, as determined by the Building Official.*

*Section 83-2.B.(9) – It constitutes a threat to the general health, safety or welfare as determined by the Director of Health. The building is accessible to the public and constitutes an attractive nuisance to the neighborhood.*

**NOW THEREFORE, BY THE AUTHORITY OF THE TOWN OF BROOKFIELD  
Blighted Buildings and Properties Ordinances,**

Blight Prevention Panel, Land Use Office – PO Box 5106, Brookfield, CT 06804 203-775-7316



**TOWN OF BROOKFIELD**

**BLIGHT PREVENTION PANEL**

*Notice of Probable Violation and Order to Appear*  
846 Federal Road, Brookfield, CT

*Page 2*

Pursuant to Section 83-4.A of the Ordinances, the Blight Prevention Panel will hold a **Show Cause Hearing** and **YOU ARE REQUIRED TO APPEAR AT THIS HEARING** where you will be given the opportunity to be heard and **SHOW CAUSE** why there is no violation and why a Final Notice of Violation should not be issued.

**THE SHOW CAUSE HEARING IS SCHEDULED FOR December 16, 2020 AT 9:15 A.M. IN ROOM 209, TOWN HALL, 100 POCONO ROAD, BROOKFIELD, CT 06804.** If you do not feel comfortable coming in to Town Hall, we can call you during the Blight Prevention Panel meeting. Please just call us at least a day before the meeting with a phone number you will be available at between the hours of 9 am and 10 am on your hearing date.

IN ADDITION, you are hereby ordered to immediately

- **CEASE AND DESIST** from any further violations set forth above and any unlawful activities listed in the **Blighted Buildings and Properties Ordinances** contained in the Code of Ordinances of the Town of Brookfield until the date of the Hearing; and
- You are encouraged to take **CORRECTIVE ACTION** to remedy the above stated violations.

*Corrective Action will include securing the building from trespass, repairing the roof and front portico and maintaining the property overall.*

You are advised that, after the hearing, if the Blight prevention Panel determines that a violation has occurred and/or exists, the Panel will issue a Notice of Violation, Decision and Order which states the violation, directs the corrective or remedial action required to correct the violation, and the deadline to complete the required action. In addition, pursuant to Ordinance Section 83-4.E, the Order will impose fines of up to **\$100.00 per day** that the violation continues after the deadline for completion of the corrective or remedial actions required.

Should you take action to cure the violation(s) before the above the scheduled Hearing date, you may contact the undersigned to schedule a compliance inspection. If said inspection verifies that a violation(s) no longer exists, your compliance will be noted and the matter closed.



TOWN OF BROOKFIELD

BLIGHT PREVENTION PANEL

Issued at Brookfield, Connecticut, this 2<sup>nd</sup> day of December, 2020.

*Notice of Probable Violation and Order to Appear*

*Page 3*

*846 Federal Road, Brookfield, CT*

BROOKFIELD BLIGHT PREVENTION PANEL

By: Raymond E. Sullivan, M.D.,  
Brookfield Blight Prevention Panel Chair

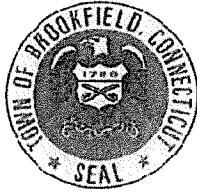
cc:

J. Purcell, Police Chief  
Town of Brookfield

RES/cm



# **EXHIBIT C**



**TOWN OF BROOKFIELD**

**BLIGHT PREVENTION PANEL**

Sent Via First Class Mail and  
Certified Mail, Return Receipt Requested  
#7011 1570 0002 4737 5837

**\*\*\*\*\*NOTICE OF VIOLATION, DECISION AND ORDER\*\*\*\*\***

<b>ISSUED TO:</b>	<b>LOCATION OF VIOLATION:</b>
McCarthy Realty Inc. c/o Attorney Dominic Piacenza Conservator 164 Hempstead Street New London, CT 06320	846 Federal Rd Brookfield, CT 06804

The Brookfield Blight Panel met on December 16, 2020, in a properly called and duly noticed hearing, to consider the alleged probable violation of the Blighted Buildings and Properties Ordinances concerning the above referenced property. No persons representing the property owner appeared at the hearing.

**This Notice of Violation, Decision and Order is a result of that Hearing.**

You are hereby notified that it has been determined that a violation of the Brookfield Town Code of Ordinances, Chapter 83, "Blighted Buildings and Properties," has occurred on this above-referenced property and that violation is as follows:

*Section 83-2.B. (1) – It is determined by the Town that existing conditions pose a serious or immediate danger to the community because of a life-threatening condition or a condition which puts at risk the health or safety of citizens.*

*Section 83-2.B. (2) – The property is not being maintained. Sagging roof. It is becoming dilapidated and unsafe, as determined by the Building Official.*

*Section 83-2.B. (9) – It constitutes a threat to the general health, safety or welfare as determined by the Director of Health. The building is accessible to the public and constitutes an attractive nuisance to the neighborhood.*

You must correct and/or remove these conditions on or before January 27, 2021. Under Subsection E of Ordinance Section 83-4, you will be subject to a civil penalty of one hundred dollars (\$100) for each day a violation exists and continues beyond the date set for remediation.



**TOWN OF BROOKFIELD**

**BLIGHT PREVENTION PANEL**

*Notice of Violation, Decision and Order*  
846 Federal Rd, Brookfield, CT 06804

Page 2

*Corrective Action will include, but not be limited to:*

- o *Securing the building from trespass*
- o *Repairing the roof and front portico*
- o *Installing an 8 foot fence*
- o *Maintaining the property overall*

In addition, the failure to comply with this order could result in the issuance of a separate Citation and fines for failure to correct or remediate the violation by the deadline set forth in this Order.

Please note that if you fail to correct and/or remove these conditions by the deadline, the Town may itself cause the remediation of this violation at your expense.

Lastly, in addition to the above, the Town may enforce the Bighted Buildings and Properties Ordinance for these violations by filing an action in the Connecticut Superior Court in the event that you fail to remedy the above-stated violations by the deadline and you will be responsible for all fees, costs and expenses associated with said enforcement.

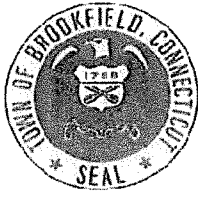
Issued this 29<sup>th</sup> day of December, 2020 at Brookfield, Connecticut

**Brookfield Blight Prevention Panel**

By: Raymond E. Sullivan, M.D.,  
Brookfield Blight Prevention Panel Chair

RES/cm

# **EXHIBIT D**



**TOWN OF BROOKFIELD**

**BLIGHT PREVENTION PANEL**

Sent Via First Class Mail and  
Certified Mail, Return Receipt Requested  
#7012 3050 0001 3412 2210  
AND  
#7012 3050 0001 3412 2227

**\*\*\*\*\*ORDER TO DEMOLISH\*\*\*\*\***

ISSUED TO:	LOCATION OF VIOLATION:
McCarty Realty, Inc. c/o Attorney Dominic Piacenza Conservator 164 Hempstead Street New London, CT 06320 AND Edward J. McCarty, President McCarty Realty, Inc. 226 Great Neck Road Waterford, CT 06385	846 Federal Rd Brookfield, CT 06804

The Brookfield Blight Panel met on March 24, 2021, in a properly called and duly noticed meeting, to determine the condition of the above referenced property and building(s) located therein.

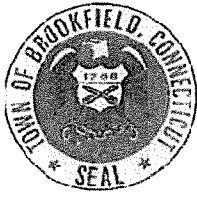
**This Order to Demolish** is a result of that meeting.

You are hereby notified that it has been determined that a violation of the Brookfield Town Code of Ordinances, Chapter 83, "Blighted Buildings and Properties," has occurred on this above-referenced property.

In accordance with the Blighted Buildings and Properties Ordinance and the Connecticut General Statutes, the Blight Prevention Panel made the following motion:

*"...A motion was made by S. Dunn to order 846 Federal Rd to be demolished finding that the main building on this property is unfit for human habitation , constitutes a fire hazard and is otherwise dangerous to human life and the public welfare. S. Dunn continued to say this is due to the deteriorated structural condition of the building and its proximity to a public street, parking area and is open to the general public. M. Connors seconded the motion with all in favor."*

**THEREFORE, you must demolish this building on or before July 30, 2021.**



**TOWN OF BROOKFIELD**

**BLIGHT PREVENTION PANEL**

*Order to Demolish  
845 Federal Rd, Brookfield, CT 06804*

*Page 2*

You must apply for a demolition permit in a timely manner, because you must wait thirty (30) days after permit issuance to actually start demolition.

Please note that **if you fail** to secure the proper demolition permit and demolish this subject building by the deadline, the Town may itself cause the demolition of this building and undertake any other necessary associated remediation of this violation at your expense, secured by a lien on this property.

Lastly, in addition to the above, the Town may enforce the Blighted Buildings and Properties Ordinance for these violations by filing an action in the Connecticut Superior Court in the event that you fail to remedy the above-stated violations by the deadline and you will be responsible for all fees, costs and expenses associated with said enforcement.

Issued this 1<sup>st</sup> day of April, 2021 at Brookfield, Connecticut

**Brookfield Blight Prevention Panel**

By: Stephen C. Dunn, First Selectman  
Brookfield Blight Prevention Panel Member

SD/cm

cc: Via Certified Mail or Personal Delivery:

Union Savings Bank (#7012 3030 0001 3412 2234)  
226 Main Street  
Danbury, CT 06810

Roberta Sinatra, Tax Collector  
Town of Brookfield  
100 Pocono Road  
Brookfield CT 06804